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IN THE COURT OF APPEALS OF THE STATE OF NEW MEXICO

No. A-1-CA-38541

RAY FLOWERS, Deceased,

Worker-Appellee,

v.

**WESTERN MOTORS, INC. and
NEW MEXICO MUTUAL CASUALTY
CO.,**

Employer/Insurer-Appellants.

**APPEAL FROM THE WORKERS' COMPENSATION ADMINISTRATION
Rachel A. Bayless, Workers' Compensation Judge**

Stout & Stout Lawyers LLP
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for Appellee

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for Appellants

MEMORANDUM OPINION

VARGAS, Judge.

{1} Western Motors, Inc., and New Mexico Mutual Casualty Co. (Employer/Insurer) appeal from the workers' compensation judge's (WCJ) order, entered October 7, 2019, concluding that Ray Flowers (Worker) was an independent contractor at the time he

was injured and thus the Workers' Compensation Act did not apply. This Court issued a notice of proposed disposition, proposing to affirm. Worker filed a memorandum in support of proposed summary affirmance. Employer/Insurer have not filed any memoranda in opposition to this Court's calendar notice, and the time for doing so has now passed. "Failure to file a memorandum in opposition constitutes acceptance of the disposition proposed in the calendar notice." *Frick v. Veazey*, 1993-NMCA-119, ¶ 2, 116 N.M. 246, 861 P.2d 287. Accordingly, for the reasons stated in our notice of proposed disposition and herein, we affirm the WCJ's order.

{2} IT IS SO ORDERED.

JULIE J. VARGAS, Judge

WE CONCUR:

JENNIFER L. ATTREP, Judge

KRISTINA BOGARDUS, Judge